

***Plaintiffs' Motion to Compel Compliance with Subpoena
to Produce Documents***

EXHIBIT 19

Thursday, October 19, 2023 at 22:19:43 Eastern Daylight Time

Subject: RE: Production of Responsive Coffee County Board of Elections and Registration Records

Date: Wednesday, October 18, 2023 at 6:15:56 PM Eastern Daylight Time

From: Jennifer Dorminey Herzog

To: Cross, David D., Cary Ichter, Courtney Francisco, Marilyn Marks

CC: Anthony A. Rowell, Nick Kinsley, Stephen Delk,
bperkins@olivermaner.com, Vickers, Wesley, Bruce Brown,
Robert McGuire, hknapp@khlawfirm.com

Attachments: image001.png, image002.png, image003.jpg

As stated below, I am advised IT simply retrieved select files needed by then Election Supervisor Rachel Roberts for conducting future elections but took no action as far as copying beyond that.

Jennifer Dorminey Herzog

Attorney at Law | Hall Booth Smith, P.C.

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From: Cross, David D. <DCross@mofo.com>

Sent: Wednesday, October 18, 2023 6:12 PM

To: Jennifer Dorminey Herzog <jherzog@hallboothsmith.com>; Cary Ichter <CIchter@IchterDavis.com>; Courtney Francisco <cfrancisco@IchterDavis.com>; Marilyn Marks <marilyn@uscg.gov>

Cc: Anthony A. Rowell <ARowell@hallboothsmith.com>; Nick Kinsley <NKinsley@hallboothsmith.com>; Stephen Delk <SDelk@hallboothsmith.com>; bperkins@olivermaner.com; Vickers, Wesley <Wesley.Vickers@coffeecounty-ga.gov>; Bruce Brown <bbrown@brucepbrownlaw.com>; Robert McGuire <ram@lawram.com>; hknapp@khlawfirm.com

Subject: RE: Production of Responsive Coffee County Board of Elections and Registration

Records

Thanks for the quick reply today. One followup question. You wrote that you "confirmed they did not image a copy of the entirety of the hard drive of Misty Hampton's desktop." Just to clarify, does your client have a partial image of the hard drive?

From: Jennifer Dorminey Herzog <jherzog@hallboothsmith.com>

Date: Wednesday, Oct 18, 2023 at 6:06 PM

To: Cary Ichter <CIchter@IchterDavis.com>, Courtney Francisco <cfrancisco@IchterDavis.com>, Marilyn Marks <marilyn@uscgg.org>

Cc: Anthony A. Rowell <ARowell@hallboothsmith.com>, Nick Kinsley <NKinsley@hallboothsmith.com>, Stephen Delk <SDelk@hallboothsmith.com>, bperkins@olivermaner.com <bperkins@olivermaner.com>, Vickers, Wesley <Wesley.Vickers@coffeecounty-ga.gov>, Bruce Brown <bbrown@brucepbrownlaw.com>, Robert McGuire <ram@lawram.com>, Cross, David D. <DCross@mofo.com>, hknapp@khlawfirm.com <hknapp@khlawfirm.com>

Subject: RE: Production of Responsive Coffee County Board of Elections and Registration Records

External Email

Good afternoon,

In response to David Cross's email sent Wednesday, October 18, 2023 11:00 AM:

GBI Attorney Philip Curtis with copy to Agent Brian Whidby. Mr. Curtis confirmed he has forwarded to the Georgia Attorney General's Office for review.

I disagree with your privileges analysis for many reasons, including but not limited to it is my understanding there is a protective order in the Fulton County prosecution prohibiting public dissemination of some or all of the evidence; however, we can reserve this particular disagreement until we know whether or not the records will be produced to Coffee County by the GBI; at this point, the records are not in the County's possession and so it is a moot issue.

In response to Cary Ichter's email sent Wednesday, October 18, 2023 11:11 AM:

I communicated with Coffee County IT and confirmed they did not image a copy of the entirety of the hard drive of Misty Hampton's desktop before the desktop was taken into custody by the GBI (I am advised simply retrieved select files needed by then Election Supervisor Rachel Roberts for conducting future elections). Therefore, until the GBI returns the desktop to the possession of Coffee County or otherwise produces the records to Coffee County, Coffee County does not have the requested records in its possession and therefore cannot produce them in response to subpoenas or open records requests or even a Motion to Compel.

In response to David Cross's email sent Wednesday, October 18, 2023 11:17 AM:

See above response to Ichter's email. I am simply relying upon and relaying information given to me by Coffee County and Coffee County IT as to the steps taken by IT and the outcome of same, and relying upon your statements as to the GBI's success in accessing files that Coffee County IT could not access when the desktop was in the County's possession. As noted in my prior communication to you, based on the information provided to me by Coffee County and Coffee County IT, I previously advised counsel in the Curling litigation in response to subpoenas, numerous others in response to open records requests to Coffee County, and the GBI agents themselves, that although Coffee County IT employed and exhausted the resources available to them to attempt to locate Hampton's emails/account, they were unable to locate/retrieve the emails from either Hampton's desktop or through web-based services and believed those emails to be permanently lost. I made those representations based on best information given to me at the time and the truth – Coffee County did not have access to the emails, and, based on the information provided to me by IT, believed them to be no longer in existence. An email from you received Friday 10/6/23 along with other references in open records requests directed to Coffee County the same day were the first notice I received of the GBI's success in locating/accessing Misty Hampton's emails.

We have taken the additional step to request the records from the GBI so now we will wait for their response.

Sincerely,

Jennifer Herzog

Jennifer Dorminey Herzog

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From: Cross, David D. DCross@mofo.com

Sent: Wednesday, October 18, 2023 11:17 AM

To: Cary Ichter CIchter@IchterDavis.com; Jennifer Dorminey Herzog jherzog@hallboothsmith.com; Courtney Francisco cfrancisco@IchterDavis.com; Marilyn Marks marilyn@uscgg.org
Cc: Anthony A. Rowell ARowell@hallboothsmith.com; Nick Kinsley NKinsley@hallboothsmith.com; Stephen Delk SDelk@hallboothsmith.com; bperkins@olivermaner.com; Vickers, Wesley Wesley.Vickers@coffeecounty-ga.gov; Bruce Brown bbrown@brucepbrownlaw.com; Robert McGuire ram@lawram.com; hknapp@khlawfirm.com
Subject: RE: Production of Responsive Coffee County Board of Elections and Registration Records

Jennifer - Two additional questions: are you also contending that CC no longer has any of the original files for the ESI provided to the GBI, which we now know can be - and was - collected for production (contrary to prior representations from CC in response to our subpoenas); and if not, are you still declining to collect and produce that ESI to us from CC's own files rather than simply asking the GBI for it?

Thanks again.
DC

From: Cary Ichter <CIchter@IchterDavis.com>
Sent: Wednesday, October 18, 2023 11:11 AM
To: Jennifer Dorminey Herzog <jherzog@hallboothsmith.com>; Courtney Francisco <cfrancisco@IchterDavis.com>; Marilyn Marks <marilyn@uscgg.org>
Cc: Anthony A. Rowell <ARowell@hallboothsmith.com>; Nick Kinsley <NKinsley@hallboothsmith.com>; Stephen Delk <SDelk@hallboothsmith.com>; bperkins@olivermaner.com; Vickers, Wesley <Wesley.Vickers@coffeecounty-ga.gov>; Bruce Brown <bbrown@brucepbrownlaw.com>; Robert McGuire <ram@lawram.com>; Cross, David D. <dcross@mofo.com>; hknapp@khlawfirm.com
Subject: RE: Production of Responsive Coffee County Board of Elections and Registration Records

Jennifer: Just to be clear, are you contending that Coffee County did not make a copy of any of the ESI turned over to the GBI? I share David's inquiries as well.
Cary

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From: Cross, David D. DCross@mofo.com

Sent: Wednesday, October 18, 2023 11:00 AM

To: Jennifer Dorminey Herzog jherzog@hallboothsmith.com; Cary Ichter

Clchter@IchterDavis.com; Courtney Francisco cfrancisco@IchterDavis.com

Cc: Anthony A. Rowell ARowell@hallboothsmith.com; Nick Kinsley

NKinsley@hallboothsmith.com; Stephen Delk SDelk@hallboothsmith.com;

bperkins@olivermaner.com; Vickers, Wesley Wesley.Vickers@coffeecounty-ga.gov; Bruce

Brown bbrown@brucepbrownlaw.com; Robert McGuire ram@lawram.com;

hknapp@khlawfirm.com

Subject: RE: Production of Responsive Coffee County Board of Elections and Registration Records

Thanks for passing the requests along to the GBI. Can you please let us know the individual(s) at the GBI you sent the letter to?

Also, can you please explain what privileges you could assert over materials that would be coming back from the GBI? Any applicable privileges would be mooted/vitiated upon GBI's initial procurement of the materials. And we understand many - or perhaps all - of the materials the GBI obtained have been shared with additional third parties, such as the Fulton County prosecution team, defendants in the pending criminal cases in Fulton County, and likely the grand jury there. If you disagree that these disclosures have mooted/vitiated any privileges, please explain and provide authority for your position.

Thanks.

DC

From: Jennifer Dorminey Herzog <jherzog@hallboothsmith.com>

Sent: Wednesday, October 18, 2023 10:28 AM

To: Cary Ichter <Clchter@IchterDavis.com>; Courtney Francisco

<cfrancisco@IchterDavis.com>

Cc: Anthony A. Rowell <ARowell@hallboothsmith.com>; Nick Kinsley

<NKinsley@hallboothsmith.com>; Stephen Delk <SDelk@hallboothsmith.com>;

bperkins@olivermaner.com; Vickers, Wesley <Wesley.Vickers@coffeecounty-ga.gov>; Bruce

Brown <bbrown@brucepbrownlaw.com>; Robert McGuire <ram@lawram.com>; Cross, David

D. <dcross@mofo.com>; hknapp@khlawfirm.com

Subject: RE: Production of Responsive Coffee County Board of Elections and Registration Records

Mr. Ichter,

As I expect you well know, the deadlines set out in your correspondence are absolutely and clearly unattainable. However, I did want to make you aware that I have forwarded your request to the GBI to determine if they will provide Coffee County with a copy of the records you advise were able to be recovered from Misty Hampton's desktop computer. I will update you once I hear a response from them. Of course, any records ultimately provided will still need to be reviewed for applicable privileges.

Lastly, please forward me the emails you reference in your letter from Vickers and Dial as I would like to review and discuss with Coffee County.

Sincerely,

Jennifer Herzog

Jennifer Dorminey Herzog

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From: Cary Ichter <CIchter@IchterDavis.com>
Sent: Tuesday, October 17, 2023 4:06 PM
To: Courtney Francisco <cfrancisco@IchterDavis.com>; Jennifer Dorminey Herzog <jherzog@hallboothsmith.com>
Cc: Anthony A. Rowell <ARowell@hallboothsmith.com>; Nick Kinsley <NKinsley@hallboothsmith.com>; Stephen Delk <SDelk@hallboothsmith.com>; bperkins@olivermaner.com; Bruce Brown <bbrown@brucepbrownlaw.com>; Robert McGuire <ram@lawram.com>; Cross, David D. <dcross@mofo.com>; hknapp@khlawfirm.com
Subject: RE: Production of Responsive Coffee County Board of Elections and Registration Records

Ms. Herzog: I meant to change the requested response date for the letter to COB tomorrow. The letter took a bit longer to get out than anticipated. Pls consider this an amendment to the letter and changing that date. Thank you. Cary Ichter

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From: Courtney Francisco <cfrancisco@IchterDavis.com>
Sent: Tuesday, October 17, 2023 2:18 PM
To: Jennifer Dorminey Herzog <jherzog@hallboothsmith.com>
Cc: Cary Ichter <CIchter@IchterDavis.com>; ARowell@hallboothsmith.com; NKinsley@hallboothsmith.com; SDelk@hallboothsmith.com; bperkins@olivermaner.com; Bruce Brown <bbrown@brucepbrownlaw.com>; Robert McGuire <ram@lawram.com>; Cross, David D. <dcross@mofo.com>; hknapp@khlawfirm.com
Subject: Production of Responsive Coffee County Board of Elections and Registration Records

Please find attached hereto correspondence of today's date from Mr. Cary Ichter.

--
Kind regards,

Courtney Francisco, Paralegal

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